SCHEDULES

SCHEDULE 4

POOL BETTING DUTY ETC

PART 1

AMENDMENTS OF THE BETTING AND GAMING DUTIES ACT 1981

2 For sections 6 to 8 (pool betting duty: charge, rate and payment) substitute—

"Pool betting duty

6 The duty

A duty of excise to be known as pool betting duty shall be charged in accordance with sections 7 to 8C.

7 Duty charged on net pool betting receipts

(1) If the amount of a person's net pool betting receipts for an accounting period is greater than zero, pool betting duty is charged on those receipts.

(2) The amount of that duty is 15 per cent of the amount of the receipts.

7A Calculating net pool betting receipts

For the purposes of section 7, the amount of a person's net pool betting receipts for an accounting period is—

$$S + E - W$$

where—

S is the aggregate of amounts falling due to the person in the accounting period in respect of dutiable pool bets,

E is the aggregate of expenses and profits falling within section 7E(2) that are attributable to the accounting period, and

W is the aggregate of amounts paid by the person in the accounting period by way of winnings on dutiable pool bets (irrespective of when the bets were made or determined).

7B Net pool betting receipts: meaning of "dutiable pool bet"

(1) For the purposes of a calculation under section 7A of the amount of a person's net pool betting receipts for any accounting period, a bet (wherever made) is a "dutiable pool bet" if—

(a) the bet is made by way of pool betting, and
(b) the following conditions are satisfied.

(2) The first condition is that—
(a) the bet is made by means of a totalisator situated in the United Kingdom and that person is the operator, or
(b) the bet is made otherwise than by means of a totalisator and that person is the promoter and is in the United Kingdom.

(3) The second condition is that the bet is not—
(a) made by way of sponsored pool betting,
(b) made as mentioned in section 4(3), or
(c) made for community benefit.

(4) The third condition is that if the bet was made before 31st March 2002, at least one event to which it relates takes place on or after that date.

7C Net pool betting receipts: calculating stake money

(1) This section applies for the purpose of calculating S in a calculation under section 7A.

(2) Any payment that entitles a person to make a bet shall, if he makes the bet, be treated as stake money on the bet.

(3) All payments made—
(a) for or on account of or in connection with bets that are dutiable pool bets for the purposes of the calculation,
(b) in addition to the stake money, and
(c) by the persons making the bets,

shall be treated as amounts due in respect of the bets except in so far as the contrary is proved by the person whose net pool betting receipts are being calculated.

7D Net pool betting receipts: when stakes etc fall due

(1) Subsections (2) to (5) apply for the purpose of calculating S in a calculation under section 7A but have effect subject to any regulations under subsection (6).

(2) Where—
(a) a person makes a bet, and
(b) the bet relates to a single event, or to two or more events all taking place on the same day,

any sum due to a person in respect of the bet shall be treated as falling due on the day on which the event or events take place.

(3) Where—
(a) a person makes a bet, and
(b) subsection (2) does not apply,

any sum due to a person in respect of the bet shall (subject to subsection (5)) be treated as falling due when the bet is made.

(4) Subsections (2) and (3) have effect in relation to a sum irrespective of when it is actually paid or required to be paid (even where a sum that those subsections require to be treated as falling due on or after 31st March 2002 was actually paid, or required to be paid, before that date).

(5) As respects a bet made before 31st March 2002 that relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, any sum paid on or after that date in respect of the bet shall be treated as falling due when it is paid.

(6) The Commissioners may by regulations make provision as to when any sum due to a person in respect of a bet is to be treated as falling due for the purpose of calculating S in a calculation under section 7A.

(7) Provision made by regulations under subsection (6) may not provide for a sum due to a person in respect of a bet to be treated as falling due—
   (a) earlier than when the bet is made, or
   (b) later than when the bet is determined.

(8) Regulations made under subsection (6) may—
   (a) make provision that applies generally or only in relation to a specified description of bet;
   (b) make different provision for different purposes;
   (c) make provision relating to bets made before the regulations are made (including bets made before the passing of the Finance Act 2002);
   (d) make transitional provision.

7E Net pool betting receipts: expenses and profits

(1) Subsections (2) and (3) apply for the purpose of calculating E in a calculation under section 7A.

(2) The expenses and profits falling within this subsection are (subject to subsection (3))—
   (a) those of the person whose net pool betting receipts are being calculated, and
   (b) those of any other person concerned with or benefiting from the promotion of the betting concerned.

(3) Expenses and profits do not fall within subsection (2) so far as they are—
   (a) provided out of amounts due, in respect of bets that are dutiable pool bets for the purposes of the calculation, to the person whose net pool betting receipts are being calculated, or
   (b) referable to matters other than—
      (i) the promotion or management of the betting concerned, or
      (ii) activities ancillary to, or connected with, such promotion or management.

(4) The Commissioners may by regulations make provision as to the accounting period to which expenses and profits falling within subsection (2) are to be treated as attributable for the purpose of calculating E in a calculation under section 7A.

(5) Regulations made under subsection (4) may—

(a) make provision that applies generally or only in relation to a specified description of bet;

(b) make different provision for different purposes;

(c) make provision applying in respect of expenses incurred, and profits accruing, before the regulations are made (including any incurred or accruing before the passing of the Finance Act 2002);

(d) make transitional provision.

7F Net pool betting receipts: calculating winnings

(1) Subsections (2) to (5) apply for the purpose of calculating W in a calculation under section 7A.

(2) The reference to paying an amount to a person includes a reference to holding it in an account if the person is notified that the amount is being held for him in the account and that he is entitled to withdraw it on demand.

(3) The return of a stake shall be treated as a payment by way of winnings.

(4) Only payments of money shall be taken into account.

(5) Where a bet made before 31st March 2002 relates to events at least one of which takes place before that date and at least one of which takes place on or after that date, no account shall be taken of any payment by way of winnings on the bet.

(6) The Commissioners may by regulations make provision as to when amounts paid by way of winnings are to be treated as being paid for the purposes of calculating W in a calculation under section 7A.

(7) Regulations made under subsection (6) may—

(a) make provision that applies generally or only in relation to a specified description of bet;

(b) make different provision for different purposes;

(c) make provision applying in respect of amounts paid before the regulations are made (including amounts paid before the passing of the Finance Act 2002);

(d) make transitional provision.

8 Payment and recovery

(1) Pool betting duty charged on a person's net pool betting receipts for an accounting period—

(a) becomes due at the end of the period,

(b) shall be paid by the person, and

(c) shall, subject to any regulations under subsection (3) and any directions under paragraph 3 of Schedule 1 to this Act, be paid when it becomes due.

(2) Pool betting duty that is due to be paid may be recovered from the following persons as if they were jointly and severally liable to pay the duty—

(a) the person on whose net pool betting receipts the duty is charged ("the primary payer");

(b) a person responsible for the management of any business in the course of which any bets have been made that are dutiable pool bets for the purposes of calculations under section 7A of the amount of the primary payer's net pool betting receipts for any accounting period;

(c) a person responsible for the management of any totalisator used for the purposes of any such business;

(d) where a person within any of paragraphs (a) to (c) is a company, a director.

(3) The Commissioners may by regulations—

(a) make provision as to when pool betting duty is to be paid (including provision repealing paragraph 3 of Schedule 1 to this Act and the reference to that paragraph in subsection (1)(c));

(b) make provision as to how pool betting duty is to be paid.

(4) Regulations made under subsection (3) may—

(a) make provision that applies generally or only in relation to a specified person or class of person;

(b) make different provision for different purposes;

(c) make transitional provision.

8A Meaning of "bet made for community benefit" in sections 6 to 8

(1) For the purposes of sections 6 to 8 (but subject to any direction under subsection (3)), a bet is made "for community benefit" if—

(a) the promoter of the betting concerned is a community society or is bound to pay all benefits accruing from the betting to such a society, and

(b) the person making the bet knows, when making it, that the purpose of the betting is to benefit such a society.

(2) In the case of a bet made by means of a totalisator, the reference in subsection (1) to the promoter of the betting concerned is a reference to the operator.

(3) The Commissioners may direct that any bet specified by the direction, or of a description so specified, is not a bet made for community benefit.

(4) The power conferred by subsection (3) may not be exercised unless the Commissioners consider that an unreasonably large part of the amounts paid in respect of the bets concerned will, or may, be applied otherwise than—

(a) in the payment of winnings, or

(b) for the benefit of a community society.

(5) In this section "community society" means—

(a) a society established and conducted for charitable purposes only, or

(b) a society established and conducted wholly or mainly for the support of athletic sports or athletic games and not established or conducted for purposes of private gain.

(6) In this section "society" includes any club, institution, organisation or association of persons, by whatever name called.

8B Meaning of "accounting period" in sections 6 to 8

(1) For the purposes of sections 6 to 8—

(a) each period that ends with the last Saturday in a calendar month, and begins with the Sunday immediately following the previous such Saturday, is an accounting period, but

(b) the Commissioners may by regulations make provision for some other specified period to be an accounting period.

(2) Regulations made under subsection (1)(b) may—

(a) make provision that applies generally or only in relation to a specified person or class of person;

(b) make different provision for different purposes;

(c) make transitional provision.

8C Meaning of "bet" in sections 6 to 8A

(1) For the purposes of sections 6 to 8A, "bet" does not include the taking of a ticket or chance in a lottery.

(2) Where payments are made for the chance of winning any money or money's worth on terms under which the persons making the payments have a power of selection that may (directly or indirectly) determine the winner, those payments shall be treated as bets for the purposes of sections 6 to 8A notwithstanding that the power is not exercised.

(3) Subsection (2) has effect subject to section 12(3).

(4) Where any payment entitles a person to take part in a transaction that is, on his part only, not a bet made by way of pool betting by reason of his not in fact making any stake as if the transaction were such a bet, the transaction shall be treated as such a bet for the purposes of pool betting duty (and section 7C(3) shall apply to any such payment).".